

**MAGNANIMO & DEAN, LLP**  
FRANK A. MAGNANIMO  
21031 Ventura Boulevard  
Suite 803  
Woodland Hills, CA 91364  
Telephone: (818) 305-3450  
Facsimile: (818) 305-3451  
Email: [Frank@MagDeanLaw.com](mailto:Frank@MagDeanLaw.com)

**GAINEY McKENNA & EGLESTON**  
THOMAS J. MCKENNA  
GREGORY M. EGLESTON  
501 Fifth Avenue, 19<sup>th</sup> Floor  
New York, New York 10017  
Tel: (212) 983-1300  
Fax: (212) 983-0383  
Email: [tjmckenna@gme-law.com](mailto:tjmckenna@gme-law.com)  
Email: [gegleston@gme-law.com](mailto:gegleston@gme-law.com)

*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

LEONARD R. PINTO, Derivatively  
on Behalf of ARLO  
TECHNOLOGIES, INC.,

Plaintiff,

v.

SEAN AGGARWAL, JOCELYN E.  
CARTER-MILLER, RALPH E.  
FAISON, MATTHEW McRAE,  
MIKE POPE, GRADY K.  
SUMMERS, and AMY ROTHSTEIN

Defendants,

-and-

ARLO TECHNOLOGIES, INC.

Nominal Defendant.

Case No.: 5:19-cv-03354-BLF

**AMENDED VERIFIED  
SHAREHOLDER DERIVATIVE  
COMPLAINT**

1 Plaintiff Leonard R. Pinto (“Plaintiff”), by and through his undersigned  
2 counsel, derivatively on behalf of Nominal Defendant Arlo Technologies, Inc.  
3 (“Arlo” or the “Company”), submits this Amended Verified Shareholder Derivative  
4 Complaint (the “Amended Complaint”). Plaintiff’s allegations are based upon his  
5 personal knowledge as to himself and his own acts, and upon information and belief,  
6 developed from the investigation and analysis by Plaintiff’s counsel, including a  
7 review of publicly available information, including filings by Arlo with the U.S.  
8 Securities and Exchange Commission (“SEC”), press releases, news reports, analyst  
9 reports, investor conference transcripts, publicly available filings in lawsuits, and  
10 matters of public record.

### 11 **NATURE OF THE ACTION**

12 1. This is a shareholder derivative action brought on behalf of and for the  
13 benefit of the Company, against certain of its officers and/or directors named as  
14 defendants herein seeking to remedy Defendants (defined below) violations of  
15 Sections 10(b) and 21D of the Securities Exchange Act of 1934 (the “Exchange  
16 Act”), their breaches of fiduciary duties and other wrongful conduct as alleged  
17 herein and that occurred from August 3, 2018 through the present (the “Relevant  
18 Period”). Defendants’ (defined below) actions have caused, and will continue to  
19 cause, substantial financial harm and other damages to the Company, including  
20 damages to its reputation and goodwill.

21 2. The Company is a provider of home security and monitoring systems.  
22 The Company’s products include Wi-Fi- and LTE-enabled cameras, advanced baby  
23 monitors, and smart security lights. The Company claims to be the leader in the  
24 U.S. consumer network-connected camera-systems market, with a 48% market share  
25 as of the second quarter of 2018. The Company has enjoyed a “first-mover”  
26 advantage, as one of the first companies to mass produce easy-to-install home  
27 security cameras and the integrated smart technologies used to service the devices.  
28 As a result of its market dominance, purportedly superior product offerings, and

1 focus on product innovation, the Company has been able to charge a premium for its  
2 devices, with some of its security cameras selling for nearly double the price of its  
3 competitors' cameras. The Registration Statement and Prospectus issued in  
4 connection with the Company's August 6, 2018 initial public offering (the "IPO")  
5 stated that Arlo would continue to offer industry "leading technology" in its  
6 products, maintain its competitive edge, and "continue to charge a premium price  
7 over competing products because of our superior product features, ease of use and  
8 bundled prepaid services."

9       3. On August 6, 2018, the Company filed its Prospectus for the IPO with  
10 the SEC (the "Prospectus"), which was incorporated into and forms part of the  
11 Registration Statement for the IPO (together, with all amendments, the "Registration  
12 Statement"). By means of the Registration Statement, the Company sold over 11.7  
13 million shares of common stock at a price of \$16 per share, generating over \$187  
14 million in gross proceeds. Prior to the IPO, the Company was a subsidiary of  
15 NETGEAR, Inc. ("NETGEAR"). NETGEAR spun off Arlo in the IPO and  
16 continued to control the Company after the IPO, owning over 80% of the shares of  
17 Arlo's outstanding common stock (the "Spin Off").

18       4. The Registration Statement was negligently prepared and, as a result,  
19 contained untrue statements of material fact, omitted material facts necessary to  
20 make the statements contained therein not misleading, and failed to make adequate  
21 disclosures required under the rules and regulations governing the preparation of  
22 such documents. Specifically, the Registration Statement failed to disclose that: (i)  
23 Arlo was suffering from adverse sales trends in its key product offerings; (ii) Arlo's  
24 products had begun the end of their sales cycle and the Company had failed to  
25 develop the new products necessary to replace them; (iii) Arlo needed to engage in  
26 aggressive promotional activity and cut prices in order to maintain sales growth and  
27 stave off competition from well-resourced rivals, such as Google and Amazon, with  
28 significantly cheaper product offerings; (iv) Arlo's new flagship wire-free security

1 camera system, Arlo Ultra, suffered from quality control issues that jeopardized the  
2 Company's ability to launch the product in time for the crucial holiday season; and  
3 (v), as a result of (i)-(iv), the Company was experiencing extreme margin pressures,  
4 had lost its ability to maintain its historical price premium, and was suffering from  
5 accelerating negative sales and operational trends.

6 5. On October 25, 2018, the Company issued a press release announcing  
7 its financial results for the quarter ended September 30, 2018 – *the same quarter*  
8 during which the Company had conducted the IPO. Arlo announced that its GAAP  
9 gross margin had shrunk to 22.7% during the quarter, down from 25.5% the prior  
10 quarter and 27% in the comparable quarter the prior year. The press release also  
11 provided a dismal outlook for the Company's fourth quarter of 2018, with a  
12 projected GAAP gross margin of only 12.4% to 14.4% – or approximately *half* the  
13 Company's gross margin achieved in the quarter just prior to the IPO. At the same  
14 time, the Company forecast revenues of only \$140 million to \$155 million for the  
15 quarter, which was a slight increase over the \$131.2 million in quarterly revenues  
16 achieved in the third quarter of 2018, despite the fact that the Company historically  
17 recorded substantially higher revenues during the fourth quarter due to the holiday  
18 shopping season. For example, the Company generated more than a third of its  
19 annual revenues in the fourth quarter of 2017.

20 6. During the earnings call to discuss the results, Christine M. Gorjanc  
21 ("Gorjanc"), the Company's Chief Financial Officer ("CFO"), stated that the sharp  
22 decline in gross margins was due to the high level of promotional activity the  
23 Company needed to engage in to promote sales and register users. Gorjanc stated  
24 that the promotional activity was necessary because Arlo had failed to bring a new  
25 product to market and the Company's available products were later in their sales  
26 cycle, and thus less desirable to consumers. As a result, Arlo's technological  
27 advantage had been eroded by the time of the IPO and, unbeknownst to the market  
28 and contrary to representations made in the Registration Statement, the Company

1 would be unable to charge its historical price premium in the face of rising  
2 competition.

3 7. Then, on December 3, 2018, the Company reported a delay in  
4 shipments of its Arlo Ultra flagship device due to “a quality issue with the battery  
5 from one of its suppliers.” The defective cameras had been under development for  
6 months, including at the time of the IPO. As a result of the delay, the Company  
7 lowered its already disappointing fourth quarter 2018 financial guidance, with “net  
8 revenue to be in the range of \$125 million to \$130 million, non-GAAP gross margin  
9 to be approximately 10%, and non-GAAP operating loss to be approximately 20%  
10 of revenue.” Thus, the Company would experience sequential revenue **contraction**  
11 and accelerating gross margin erosion despite the impact of the holiday shopping  
12 season and the aforementioned promotional activities.

13 8. On December 4, 2018, the Company stock closed at \$8.80 per share, or  
14 **45% less** than the price at which Arlo stock had sold in the IPO only four months  
15 previously.

16 9. On May 21, 2021, the Company stock closed at \$6.40 per share.

17 **JURISDICTION AND VENUE**

18 10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331  
19 because Plaintiff’s claims raise a federal question under Section 10(b) of the  
20 Exchange Act, 15 U.S.C. § 78j(b), and Section 21D of the Exchange Act, 15 U.S.C.  
21 § 78u-4(f). This Court has supplemental jurisdiction over the remaining claims  
22 under 28 U.S.C. §1367.

23 11. This Court has jurisdiction over each defendant named herein because  
24 each defendant is either a corporation that conducts business in and maintains  
25 operations in this District or is an individual who has sufficient minimum contacts  
26 with this District to render the exercise of jurisdiction by the District courts  
27 permissible under traditional notions of fair play and substantial justice.

12. Venue is proper in this Court in accordance with 28 U.S.C. § 1391 because: (i) Arlo maintains its principal place of business in this District; (ii) one or more of the defendants either resides in or maintains executive offices in this District; (iii) a substantial portion of the transactions and wrongs complained of herein, including Defendants' primary participation in the wrongful acts detailed herein, and aiding and abetting and conspiracy in violation of fiduciary duties owed to Arlo, occurred in this District; and (iv) Defendants have received substantial compensation in this District by doing business here and engaging in numerous activities that had an effect in this District.

### **PARTIES**

#### **Plaintiff**

13. *Plaintiff Leonard R. Pinto* ("Plaintiff") is a current owner of Arlo's stock, purchasing his stock in connection with the Registration Statement, and has held the stock during the time of the continuous wrongful course of conduct alleged herein, and continues to hold his Arlo stock. Plaintiff will fairly and adequately represent the interests of the stockholders in enforcing the rights of the Company.

#### **Nominal Defendant**

14. *Defendant Arlo Technologies, Inc.* ("Arlo" or the "Company") is a Delaware corporation with its principal executive offices located at 3030 Orchard Parkway, San Jose, CA 95134. Arlo is incorporated in Delaware.

#### **Director Defendants**

15. *Defendant Sean Aggarwal* ("Aggarwal") has served as a member of Arlo's Board of Directors (the "Board") since October 2018. Defendant Aggarwal is a member of the Compensation, Nominating and Corporate Governance, and Cybersecurity committees. Defendant Aggarwal was added as a member of the Audit Committee in April 2020.

16. *Defendant Jocelyn E. Carter-Miller* ("Carter-Miller") was a director of the Company at the time of the IPO. Defendant Carter-Miller had served on the

1 board of directors of NETGEAR since January 2009. Defendant Carter-Miller was  
 2 motivated by the financial implications of the Spin Off and IPO, given her financial  
 3 stake in Arlo and NETGEAR. As of the Spin Off and IPO, Defendant Carter-Miller  
 4 beneficially owned over 11,000 NETGEAR shares, and in connection with the IPO,  
 5 received Restricted Stock Units representing 12,500 shares of Arlo common stock.  
 6 Defendant Carter-Miller is a member of the Audit and Strategic committees.  
 7 Defendant Carter-Miller is the Chair of the Compensation Committee.

8 17. ***Defendant Ralph E. Faison*** (“Faison”) was, at all relevant times, the  
 9 Chairman of the Board of the Company at the time of the IPO. Defendant Faison  
 10 had served on the board of directors of NETGEAR since August 2003. Defendant  
 11 Faison was motivated by the financial implications of the Spin Off and IPO, given  
 12 his financial stake in Arlo and NETGEAR. As of the Spin Off and IPO, Defendant  
 13 Faison beneficially owned over 33,000 NETGEAR shares, and in connection with  
 14 the IPO, received Restricted Stock Units representing 12,500 shares of Arlo  
 15 common stock. Defendant Faison is a member of the Compensation and  
 16 Cybersecurity committees. Defendant Faison is the Chair of the Nominating and  
 17 Corporate Governance Committee and Strategic Committee.

18 18. ***Defendant Matthew McRae*** (“McRae”) was, at all relevant times, the  
 19 Chief Executive Officer (“CEO”) and a director of the Company, as well as  
 20 NETGEAR’s Senior Vice President of Strategy as of the IPO. Defendant McRae  
 21 signed or authorized the signing of the false and misleading Registration Statement.  
 22 As one of the executives in the Spin Off and IPO working group, Defendant McRae  
 23 reviewed and approved, and participated in making statements in the Registration  
 24 Statement. Defendant McRae also reviewed, edited and approved the road show  
 25 PowerPoint presentation. Defendant McRae was motivated by the financial  
 26 implications of the Spin Off and IPO, given his financial stake and incoming  
 27 executive position in Arlo, as well as his financial interest in NETGEAR, Arlo’s  
 28 controlling shareholder. As of the Spin Off and IPO, Defendant McRae had

1 substantial holdings in NETGEAR and in connection with the IPO, received stock  
2 options representing 1,875,000 shares of Arlo common stock.

3 19. ***Defendant Mike Pope*** (“Pope”) has served as a member of Arlo’s  
4 Board since October 2018. Defendant Pope is the Chair of the Audit Committee  
5 and a member of the Nominating and Corporate Governance Committee.

6 20. ***Defendant Grady Summers*** (“Summers”) was a director of the  
7 Company at the time of the IPO. Defendant Summers had served on the board of  
8 directors of NETGEAR since January 2016. Defendant Summers was motivated by  
9 the financial implications of the Spin Off and IPO, given his financial stake in Arlo  
10 and NETGEAR. As of the Spin Off and IPO, Defendant Summers beneficially  
11 owned over 14,000 NETGEAR shares, and in connection with the IPO, received  
12 Restricted Stock Units representing 12,500 shares of Arlo common stock.  
13 Defendant Summers is a member of the Audit Committee and the Chair of the  
14 Cybersecurity Committee.

15 21. ***Defendant Amy Rothstein*** (“Rothstein”) has served as a director since  
16 May 7, 2019. Defendant Rothstein is a member of the Strategic Committee.

17 22. Defendants Aggrawal, Carter-Miller, Faison, McRae, Pope, Summers,  
18 and Rothstein are referred to herein as the “Director Defendants” or “Defendants”.

#### 19 **Non-Party**

20 23. ***Non-Party NETGEAR*** is a consumer electronics company based in  
21 San Jose, California. As the parent Company of Arlo, NETGEAR owned 100% of  
22 Arlo’s outstanding common stock as of the IPO and held 84.2% of the Company’s  
23 outstanding common stock after the IPO, having sold securities representing  
24 approximately 16% of its ownership interest in connection with the IPO. The  
25 Registration Statement identified NETGEAR as Arlo’s “Controlling Shareholder”  
26 and listed numerous powers that NETGEAR had over Arlo, including “the power to  
27 determine matters submitted to a vote of our stockholders without the consent of  
28 [Arlo’s] other stockholders.” NETGEAR designated numerous personnel in the

1 working group for the Spin Off and IPO, including Defendant McRae, its Senior  
 2 Vice President of Strategy, who became Arlo's Chief Executive Officer ("CEO") in  
 3 connection with the Spin Off and IPO, and Christine M. Gorjane, its Chief Financial  
 4 Officer, who became Arlo's Chief Financial Officer in connection with the Spin Off  
 5 and IPO ("CFO"), as well as other executives, all of whom not only reviewed and  
 6 approved the Registration Statement, but also participated in making presentations  
 7 according to a PowerPoint reviewed and approved by them and other personnel on  
 8 behalf of NETGEAR and Arlo. NETGEAR was motivated by the financial  
 9 implications of the Spin Off and IPO, including (among other things) selling its  
 10 interest in Arlo, transferring certain Arlo assets and liabilities, and being able to  
 11 cause the issuance of marketable securities to further fund cash and securities into  
 12 its capital structure.

### 13 **ARLO'S CORPORATE GOVERNANCE**

14 24. As members of the Company's Board, the Director Defendants were  
 15 held to the highest standards of honesty and integrity and charged with overseeing  
 16 the Company's business practices and policies and assuring the integrity of its  
 17 financial and business records.

18 25. The conduct of the Director Defendants complained of herein involves  
 19 a knowing and culpable violation of their obligations as directors and officers of the  
 20 Company, the absence of good faith on their part, and a reckless disregard for their  
 21 duties to the Company and its investors that the Director Defendants were aware  
 22 posed a risk of serious injury to the Company.

### 23 **CODE OF BUSINESS ETHICS AND CONFLICT OF INTEREST POLICY** 24 **FOR DIRECTORS, OFFICERS AND KEY EMPLOYEES**

25 26. The Company maintains a Code of Business Conduct and Ethics  
 26 ("Code of Conduct"). The Code of Conduct states in relevant part:

#### 27 **IV. DISCLOSURE TO THE SEC AND THE PUBLIC**

*Our policy is to provide full, fair, accurate, timely, and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in our other public communications.*

Accordingly, Covered Persons must ensure that they and others in the Company comply with our disclosure controls and procedures and our internal controls for financial reporting. In the event any Covered Person believes or suspects that any information that is filed with, or submitted to the SEC, or otherwise made publicly available is materially inaccurate or misleading, or if such Covered Person has identified or has suspicion of a material weakness in the Company's public reporting procedures, such Covered Person shall promptly raise such concern with one of the following: the Chief Financial Officer, or the SVP of Human Resources, or General Counsel, or Internal Audit or Chairman of the Audit Committee (or other member of the Audit Committee, as may be appropriate). Such report may be made on an anonymous basis. [Emphasis added].

27. As stated therein, the Code of Conduct applies to all of Arlo's officers, directors, and employees. The wrongful conduct of the Director Defendants complained of herein violates the Code of Conduct.

### **THE AUDIT COMMITTEE CHARTER**

28. Arlo maintains an Audit Committee Charter. The Audit Committee Charter states in relevant part:

The Audit Committee's responsibility is one of oversight. The members of the Audit Committee are not employees of the Company, and they do not perform, or represent that they perform, the functions of management or the independent auditors. The Audit Committee relies on the expertise and knowledge of management and the independent auditors in carrying out its oversight responsibilities. The management of the Company is responsible for preparing accurate and complete financial statements in accordance with generally accepted accounting principles and for establishing and maintaining appropriate accounting principles and financial reporting policies and satisfactory internal control over financial reporting. The independent auditors are responsible for auditing the Company's annual consolidated financial statements and the effectiveness of the Company's internal control over financial reporting and reviewing the Company's periodic financial

1 statements. It is not the responsibility of the Audit Committee to  
2 prepare or certify the Company's financial statements or guarantee the  
3 audits or reports of the independent auditors, nor is it the duty of the  
4 Audit Committee to certify that the independent auditor is  
5 "independent" under applicable rules. These are the fundamental  
6 responsibilities of management and the independent auditors.

7 \* \* \*

#### 8 COMMITTEE RESPONSIBILITIES AND AUTHORITY:

9 The responsibilities of the Audit Committee shall include:

- 10 • *Overseeing the Company's system of internal controls over*  
11 *financial reporting, including meeting periodically with the*  
12 *Company's management and the independent auditors to*  
13 *review the adequacy of such controls and to review the*  
14 *disclosure regarding such system of internal controls required*  
15 *under SEC rules to be contained in the Company's periodic*  
16 *filings and the attestations or reports by the independent*  
17 *auditors relating to such disclosure;*
- 18 • Prior to engagement of any prospective auditors, reviewing a  
19 written disclosure by the prospective auditors of all relationships  
20 between the prospective auditors, or their affiliates, and the  
21 Company, or persons in financial oversight roles at the  
22 Company, that may reasonably be thought to bear on  
23 independence, and to discuss with the prospective auditors the  
24 potential effects of such relationships on the independence of the  
25 prospective auditors, consistent with Ethics and Independence  
26 Rule 3526, Communication with Audit Committees Concerning  
27 Independence, of the Public Company Accounting Oversight  
28 Board (United States) (the "PCAOB");
- Appointing, retaining, compensating and overseeing the work of  
the independent auditors (including resolving disagreements  
between management and the independent auditors regarding  
financial reporting) for the purpose of preparing or issuing an  
audit report or related work. The Audit Committee shall submit

1 its selection of the independent auditors to the Company's  
2 stockholders for their non-binding ratification on an annual basis;

- 3 • Pre-approving audit and permissible non-audit services provided  
4 to the Company by the independent auditors (or subsequently  
5 approving non-audit services in those circumstances where a  
6 subsequent approval is necessary and permissible); in this regard,  
7 the Audit Committee shall have the sole authority to approve the  
8 selection and termination of the independent auditors (which  
9 independent auditors shall report to the Audit Committee), all  
10 audit engagement fees and terms and all non-audit engagements,  
11 as may be permissible, with the independent auditors;
- 12 • Reviewing and discussing with the independent auditors any  
13 documentation supplied by the independent auditors as to the  
14 nature and scope of any tax services to be approved, as well as  
15 the potential effects of the provision of such services on the  
16 auditor's independence;
- 17 • Reviewing and providing oversight with respect to the external  
18 audit and the Company's relationship with its independent  
19 auditors by (i) reviewing the independent auditors' proposed  
20 audit scope, approach and independence for the annual audit and  
21 quarterly reviews for the current year; (ii) obtaining on a periodic  
22 basis a written statement from the independent auditors regarding  
23 relationships and services with the Company which may impact  
24 independence and presenting this statement to the Board, and to  
25 the extent there are relationships, monitoring and investigating  
26 them; (iii) discussing with the Company's independent auditors  
27 the financial statements and audit findings, including any  
28 significant adjustments, management judgments and accounting  
estimates, changes in the Company's selection or application of  
accounting principles, any difficulties encountered in the course  
of the audit work, suggestions for improvements provided to  
management by the independent auditors, any restrictions on the  
scope of activities or access to requested information, any  
significant disagreements with management and any other  
required communications described in applicable accounting  
standards, significant new accounting policies and any other  
matters described in PCAOB AS 1301 – Communications with

AMENDED VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

1           Audit Committees, as may be modified or supplemented; and  
2           (iv) reviewing reports submitted to the audit committee by the  
3           independent auditors in accordance with the applicable SEC  
4           requirements;

- 5           • Reviewing and discussing with management and the independent  
6           auditors the annual audited financial statements and quarterly  
7           unaudited financial statements, including the Company's  
8           disclosures under "Management's Discussion and Analysis of  
9           Financial Condition and Results of Operations," in connection  
10          with filing the Company's Annual Report on Form 10-K and  
11          Quarterly Reports on Form 10-Q, respectively, with the SEC;
- 12          • Engaging the Company's independent auditors to review, prior  
13          to filing with the SEC, the Company's interim financial  
14          statements included in Quarterly Reports on Form 10-Q, using  
15          professional standards and procedures for conducting such  
16          reviews;
- 17          • Reviewing, prior to announcement, the Company press releases  
18          containing material financial information and discussing with  
19          management whether such press releases properly disclose  
20          financial information presented in accordance with GAAP and,  
21          to the extent non-GAAP information is included, applicable rules  
22          and regulations of the SEC governing the disclosure of such non-  
23          GAAP information;
- 24          • Overseeing compliance with the requirements of the SEC and the  
25          New York Stock Exchange for disclosure of auditor's services  
26          and audit committee members, member qualifications and  
27          activities;
- 28          • At least annually, obtaining and reviewing a report by the  
            independent auditor describing the audit firm's internal quality-  
            control procedures and any material issues raised by the most  
            recent internal quality-control procedures and any material issues  
            raised by the most recent internal quality-control, peer review or  
            any inquiry or investigation by governmental or professional

1 authorities within the preceding two years, and any steps to deal  
2 with any identified issues;

- 3 • Discussing with management and the independent auditors  
4 correspondence with regulators or governmental agencies that  
5 raise material issues regarding the Company's financial  
6 statements or accounting policies;
- 7 • Reviewing management's monitoring of compliance with the  
8 Foreign Corrupt Practices Act, the UK Anti-Bribery Act and any  
9 other similar laws;
- 10 • Annually reviewing and providing to the Board for its approval  
11 the Company's Code of Business Ethics and Conflict of Interest  
12 Policy for Directors, Officers and Key Employees, in accordance  
13 with applicable law;
- 14 • Reviewing annually the results of the annual Certification of the  
15 Code of Business Ethics and Conflict of Interest Policy For  
16 Directors, Officers and Key Employees with management, and  
17 the disposition of all instances of noncompliance as appropriate;
- 18 • Setting clear hiring policies for employees or former employees  
19 of the Company's independent auditors, consistent with SEC and  
20 the New York Stock Exchange regulations and guidelines;
- 21 • Reviewing and evaluating the lead partner of the independent  
22 auditor team and ensuring an orderly rotation of the lead audit  
23 partner as required by law;
- 24 • Reviewing with the independent auditors, as appropriate,  
25 communications between the audit team and the independent  
26 auditors' national office with respect to accounting or auditing  
27 issues presented by the engagement;
- 28 • Reviewing, in conjunction with counsel, any legal matters that  
could have a significant impact on the Company's financial  
statements;

- 1       • Reviewing and discussing with management and the independent  
2       auditor the Company's financial risk exposures (including its  
3       investment policies) and assessing the policies and processes  
4       management has implemented to monitor and control such  
5       exposures;
- 6       • Assisting the Board in fulfilling its oversight responsibilities  
7       regarding the Company's policies and processes with respect to  
8       enterprise risk assessment and management, including any  
9       significant non-financial risk exposures;
- 10      • If necessary, instituting special investigations with full access to  
11      all books, records, facilities and personnel of the Company;
- 12      • Obtaining advice and assistance from outside legal, accounting  
13      or other advisors, with any resulting expenses being paid by the  
14      Company;
- 15      • Reviewing in advance and approving all transactions between the  
16      Company and a related party for which review or approval is  
17      required by applicable law or that are required to be disclosed in  
18      the Company's financial statements or SEC filings;
- 19      • At least annually, reviewing its own charter, structure, processes,  
20      and membership requirements and performing an annual self-  
21      evaluation of its performance;
- 22      • Providing a report in the Company's proxy statement in  
23      accordance with the rules and regulations of the SEC;
- 24      • Establishing procedures for receiving, retaining and treating  
25      complaints received by the Company regarding accounting,  
26      internal accounting controls or auditing matters and procedures  
27      for the confidential, anonymous submission by employees of  
28      concerns regarding questionable accounting, internal accounting  
    controls, auditing matters or related matters;
- Reviewing and advising the Chief Executive Officer and the  
    Board with respect to the appointment, dismissal and

AMENDED VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

1 replacement of the chief financial officer (and chief accounting  
 2 officer) and consulting with the Chief Executive Officer about  
 3 the performance goals and subsequent performance evaluation  
 4 and compensation of each;

- 5 • Reviewing the performance, and determining the scope, roles  
 6 and responsibilities, of the Company's internal audit function,  
 7 including: (i) assessing resource requirements (internal, external  
 8 and/or combined); (ii) reviewing with management and the chief  
 9 internal audit executive any Internal Audit Charter, audit plans,  
 10 activities, staffing and organizational structure of the internal  
 11 audit function; (iii) ensuring there are no unjustified restrictions  
 12 or limitations on the chief internal audit executive; (iv) reviewing  
 13 any significant reports to management prepared by the internal  
 14 audit department, including management's adoption and  
 15 resolution of the internal audit department's recommendations;  
 16 (v) reviewing the effectiveness of the internal audit function  
 annually as part of the year-end external audit and reporting  
 process; and (vi) on a regular basis, meeting separately with the  
 chief internal audit executive to discuss any matters that the  
 Audit Committee or internal audit believes should be discussed  
 privately;
- 17 • Reviewing and discussing with executive management, and  
 18 recommending to the Board, the appointment or dismissal of the  
 19 chief internal audit executive and consulting with executive  
 20 management about his or her performance goals and subsequent  
 21 performance evaluation and compensation, and the application of  
 22 the Company's compensation policies to other internal audit  
 23 personnel; and
- 24 • Any additional responsibility or authority mandated by the SEC,  
 25 the New York Stock Exchange or other applicable rule or  
 26 regulation. [Emphasis added].

27 29. The purpose of the Audit Committee is to assist Arlo's Board in its  
 28 oversight of accounting, financial reporting and disclosure processes and adequacy  
 of systems of disclosure and internal controls. The wrongful conduct of the Director  
 Defendants complained of herein violates the Charter of the Audit Committee.

1           30. The Board of Directors of Arlo are also charged with developing and  
2 maintaining the Company's corporate governance policies and any related matters  
3 required by the federal securities laws. The wrongful conduct of the Director  
4 Defendants complained of herein violates good corporate governance principles.

5                           **DUTIES OF THE DIRECTOR DEFENDANTS**

6           31. By reason of their positions as officers and/or directors of the  
7 Company, and because of their ability to control the business and corporate affairs  
8 of the Company, the Director Defendants owed the Company and its investors the  
9 fiduciary obligations of trust, loyalty, and good faith. The obligations required the  
10 Director Defendants to use their utmost abilities to control and manage the  
11 Company in an honest and lawful manner. The Director Defendants were and are  
12 required to act in furtherance of the best interests of the Company and its investors.

13           32. Each director of the Company owes to the Company and its investors  
14 the fiduciary duty to exercise loyalty, good faith, and diligence in the administration  
15 of the affairs of the Company and in the use and preservation of its property and  
16 assets. In addition, as officers and/or directors of a publicly held company, the  
17 Director Defendants had a duty to promptly disseminate accurate and truthful  
18 information regarding the Company's operations, finances, and financial condition,  
19 as well as present and future business prospects, so that the market price of the  
20 Company's stock would be based on truthful and accurate information.

21           33. To discharge their duties, the officers and directors of the Company  
22 were required to exercise reasonable and prudent supervision over the management,  
23 policies, practices, and controls of the affairs of the Company. By virtue of such  
24 duties, the officers and directors of the Company were required to, among other  
25 things:

- 26                           (a) ensure that the Company complied with its legal obligations and  
27 requirements, including acting only within the scope of its legal  
28

1 authority and disseminating truthful and accurate statements to the SEC  
2 and the investing public;

3 (b) conduct the affairs of the Company in an efficient, businesslike  
4 manner so as to make it possible to provide the highest quality  
5 performance of its business, to avoid wasting the Company's assets,  
6 and to maximize the value of the Company's stock;

7 (c) properly and accurately guide investors and analysts as to the  
8 true financial condition of the Company at any given time, including  
9 making accurate statements about the Company's business prospects,  
10 and ensuring that the Company maintained an adequate system of  
11 financial controls such that the Company's financial reporting would be  
12 true and accurate at all times;

13 (d) remain informed as to how the Company conducted its  
14 operations, and, upon receipt of notice or information of imprudent or  
15 unsound conditions or practices, make reasonable inquiries in  
16 connection therewith, take steps to correct such conditions or practices,  
17 and make such disclosures as necessary to comply with federal and  
18 state securities laws;

19 (e) ensure that the Company was operated in a diligent, honest, and  
20 prudent manner in compliance with all applicable federal, state and  
21 local laws, and rules and regulations; and

22 (f) ensure that all decisions were the product of independent  
23 business judgment and not the result of outside influences or  
24 entrenchment motives.

25 34. Each Director Defendant, by virtue of his or her position as a director  
26 and/or officer, owed to the Company and to its shareholders the fiduciary duties of  
27 loyalty, good faith, and the exercise of due care and diligence in the management  
28 and administration of the affairs of the Company, as well as in the use and

1 preservation of its property and assets. The conduct of the Director Defendants  
2 complained of herein involves a knowing and culpable violation of their obligations  
3 as directors and officers of the Company, the absence of good faith on their part, and  
4 a reckless disregard for their duties to the Company and its shareholders that the  
5 Director Defendants were aware, or should have been aware, posed a risk of serious  
6 injury to the Company.

7 35. The Director Defendants breached their duties of loyalty and good faith  
8 by causing the Company to issue false and misleading statements concerning the  
9 business opportunities, results, and prospects of the Company. As a result, the  
10 Company has expended, and will continue to expend, significant sums of money  
11 related to investigations and lawsuits.

## 12 **SUBSTANTIVE ALLEGATIONS**

### 13 **Background**

14 36. Arlo is a provider of home security and monitoring systems. The  
15 Company's products include Wi-Fi- and LTE-enabled cameras, advanced baby  
16 monitors, and smart security lights.

17 37. Arlo claimed to be the leader in the U.S. consumer network-connected  
18 camera-systems market, with a 48% market share as of the second quarter of 2018.  
19 The Company enjoyed a "firstmover" advantage, as one of the first companies to  
20 mass produce easy-to-install home security cameras and the integrated smart  
21 technologies that service the devices. As a result of its market dominance,  
22 purportedly superior product offerings, and focus on product innovation, the  
23 Company was able to charge a premium for its devices, with some of its security  
24 cameras selling for nearly double the price of its competitors' cameras. At the same  
25 time, Arlo was facing rising competition from competitors such as Google and  
26 Amazon, who offer lower cost alternative smart security devices. Thus, it was  
27 critical to investors at the time of the IPO that the Company maintain its competitive  
28

1 advantages, technological leadership, and ability to charge a price premium for its  
2 devices.

3 38. On July 6, 2018, Arlo filed the Registration Statement on Form S-1,  
4 which, after amendments, was declared effective on August 2, 2018. On August 6,  
5 2018, the Company filed with the SEC the Prospectus on Form 424B4, which  
6 included and formed part of the Registration Statement. By means of the  
7 Registration Statement, the Company sold over 11.7 million shares of Arlo common  
8 stock (including the exercise of the underwriters' over-allotment option) at a price of  
9 \$16 per share for over \$187 million in gross proceeds.

10 39. The Registration Statement was negligently prepared and, as a result,  
11 contained untrue statements of material fact or omitted to state other facts necessary  
12 to make the statements made not misleading, and was not prepared in accordance  
13 with the rules and regulations governing its preparation.

14 40. Specifically, the Registration Statement highlighted the Company's  
15 "significant growth" and market leadership. The Registration Statement stated in  
16 pertinent part:

17 We have experienced significant growth since the launch of our first  
18 product in December 2014, and according to NPD Group, Arlo is the  
19 leader in the U.S. consumer network connected camera systems market.  
20 Outside of the United States, we are also the leader in Australia and  
21 several major European markets. In 2016, Arlo grew revenue by 108%  
22 over the prior year to \$184.6 million, and in 2017, Arlo further grew  
23 revenue by 101% over the prior year to \$370.7 million.

24 41. The Registration Statement represented that the Company's growth  
25 would continue to be sustained through the launch of new devices and innovative  
26 technologies. The Registration Statement stated in pertinent part:

27 Since the launch of our first product in December 2014, we have  
28 shipped over 7.5 million smart connected devices, and, as of April 1,  
2018, our smart platform had over 1.9 million registered users across  
more than 100 countries around the world. *We plan to continue to*

1 *introduce new smart connected devices to the Arlo platform in new*  
2 *categories, increase the number of registered users on our platform,*  
3 *keep them highly engaged through our mobile app and generate*  
4 *incremental recurring revenue by offering them paid subscription*  
5 *services.* [Emphasis added].

6 42. Similarly, the Registration Statement claimed that Arlo's "leading  
7 technology" and its plan to "continue to introduce new smart connected devices"  
8 had positioned the Company to continue to maintain its competitive edge following  
9 the IPO. The Registration Statement stated:

10 Arlo combines an intelligent cloud infrastructure and mobile app with a  
11 variety of smart connected devices that transform the way people  
12 experience the connected lifestyle. Our cloud-based platform creates a  
13 seamless, end-to-end connected lifestyle solution that provides users  
14 visibility, insight and a powerful means to help protect and connect  
15 with the people and things that matter most to them. Arlo enables users  
16 to monitor their environments and engage in real-time with their  
17 families and businesses from any location with a Wi-Fi or a cellular  
18 network internet connection. To date, we have launched several  
19 categories of award-winning smart connected devices, including wire-  
20 free smart Wi-Fi and LTE-enabled cameras, advanced baby monitors  
21 and smart security lights. In addition, Arlo's broad compatibility  
22 allows the platform to seamlessly integrate with third-party internet-of-  
23 things ("IoT") products and protocols, such as Amazon Alexa, Apple  
24 HomeKit, Apple TV, Google Assistant, IFTTT, Stringify and Samsung  
25 SmartThings. Since the launch of our first product in December 2014,  
26 we have shipped over 7.5 million smart connected devices, and, as of  
27 April 1, 2018, our smart platform had over 1.9 million registered users  
28 across more than 100 countries around the world. *We plan to*  
*continue to introduce new smart connected devices to the Arlo*  
*platform in new categories, increase the number of registered users*  
*on our platform, keep them highly engaged through our mobile app*  
*and generate incremental recurring revenue by offering them paid*  
*subscription services.*

\* \* \*

*We believe that the combination of our leading technology and our decades of experience gained from operating within a highly successful consumer electronics company positions us well against the competition and to be successful as an independent company.*

\* \* \*

*Our technology leadership, embodied in our smart platform, has helped us achieve significant market share gain in the consumer network connected camera systems market.* According to NPD, for the second quarter of 2018, we held 48% market share based on dollar sales in the U.S. consumer network connected camera systems market, and our market leadership extends to international markets where we have introduced our products. *In addition to global expansion opportunities, we believe we are well-positioned to extend our current market leadership to the broader connected lifestyle market both within and beyond the home as we continue to launch new product lines and services within our connected lifestyle platform.* [Emphasis added].

43. In addition, the Registration Statement stated that the Company's "Best-in-Class Technology" and its stable of engineers, who are "continually push[ing] the boundaries of innovation," were among its main "[c]ompetitive [a]dvantages." The Registration Statement stated:

***Our Competitive Advantages – What Sets Us Apart***

***Best-in-Class Technology.*** Our engineers continually push the boundaries of innovation to develop products that leverage our cutting-edge technological capabilities. We are committed to hiring and retaining top engineers and thought leaders in the field.

44. While the Registration Statement discussed possible competition, it claimed that Arlo was "well-positioned" to not only maintain its competitive advantage, but "extend [its] current market leadership" following the IPO because of the Company's "new product lines and services." The Registration Statement stated:

## Competition

According to NPD, for the second quarter of 2018, we held 48% market share based on dollar sales in the U.S. consumer network connected camera systems market. Outside of the United States, we are also leaders in Australia and several major European markets. *We believe we are well-positioned to extend our current market leadership to the broader connected lifestyle market both within and beyond the home as we continue to launch new product lines and services within our smart platform.* However, our market is highly competitive and evolving, and we expect competition to increase in the future. We believe the principal competitive factors impacting the market for our products include price, service offerings, functionality, brand, technology, design, distribution channels and customer service.

*We believe that we compete favorably in these areas on the basis of our U.S. consumer network connected camera systems market leadership position, best-in-class technology, direct relationship with users and user engagement, trusted Arlo platform, strong Arlo brand and channel partners and deep strategic partnerships with key suppliers, such as Broadcom, Inc., OmniVision Technologies Inc. and Qualcomm Incorporated. Moreover, our focus on building a connected lifestyle platform, combined with our leading market share in the consumer network connected camera systems market, has led to the strength of our Arlo brand worldwide. We believe this focus allows us to compete favorably with companies that have introduced or have announced plans to introduce devices with connected lifestyle functionalities.* [Emphasis added].

45. Not only did the Registration Statement claim that Arlo's technological advantages and market dominance would grow following the IPO, the Registration Statement also stated that the Company's ability to "continue to charge a premium price over competing products" was a key component of this "[g]rowth [s]trategy." The Registration Statement stated:

### ***Our Growth Strategy***

We primarily generate revenue by selling devices through retail, wholesale distribution and wireless carrier channels and subscription

services through in-app purchases. A user's introduction to our smart platform typically starts with the purchase of one or more of our cameras and lights, with a typical registered user owning on average three Arlo devices. *We believe that we can continue to charge a premium price over competing products because of our superior product features, ease of use and bundled prepaid services, such as rolling seven-day cloud video storage.* We further enhance the user experience by offering our subscription-based Arlo Smart services, which include features such as person detection, rich app notifications and extended data storage. Since the launch of the original Arlo Security Camera in December 2014, we have introduced six additional Arlo devices, and we plan to continue to launch new camera and non-camera products and services to the Arlo ecosystem and grow our user and subscriber bases. [Emphasis added].

46. In addition, the Registration Statement touted Arlo's purported expertise in battery development for its devices. For example, the Registration Statement highlighted the Company's "power management expertise" as one of "three key technology differentiators." Specifically, the Registration Statement stated:

Our proven power management expertise, leveraged from NETGEAR's years of experience building mobile hotspots, encompasses hardware product design, software and firmware, including patented beaconing and power management methods, to prolong battery life.

\* \* \*

### ***Our Competitive Advantages – What Sets Us Apart***

***Best-in-Class Technology.*** Our engineers continually push the boundaries of innovation to develop products that leverage our cutting-edge technological capabilities.

We are committed to hiring and retaining top engineers and thought leaders in the field.

\* \* \*

- ***Power Management Expertise.*** Arlo's power management expertise, encompassing hardware product design, software and firmware, minimizes power consumption in our devices. Motion-activated on/off sensors prolong the devices' overall battery life, and our patented low-power Wi-Fi technology also minimizes battery usage before and during video transmission. As a result, our users typically only need to recharge their Arlo devices every three to six months, leading to flexible indoor and outdoor placement options.

47. Moreover, the Registration Statement highlighted the importance to Arlo of ensuring that its new products were timely launched for the critical holiday shopping season. The Registration Statement stated:

***Seasonality***

Historically, we have generated higher revenue in the third and fourth quarters of each year compared to the first and second quarters due to seasonal demand from consumer markets primarily relating to the beginning of the school year and the holiday season. For example, for the years ended December 31, 2017 and 2016, our third and fourth quarters collectively represented 62.0% and 65.5%, respectively, of our revenue for such years. ***Therefore, timely and effective product and service introductions are critical to our results of operations.*** [Emphasis added].

48. The statements in ¶¶ 38-47 were materially false and misleading when made because they failed to disclose and misrepresented the following adverse facts that existed at the time of the IPO:

(a) Arlo was suffering from adverse sales trends in its key security camera products;

(b) Arlo's flagship products had begun the end of their sales cycle and the Company had failed to develop new products to replace them or to effectively compete with alternative products being offered by the Company's rivals;

(c) Arlo needed to engage in aggressive promotional activity and cut prices in order to maintain sales growth and stave off competition from well-resourced rivals, such as Google and Amazon, with significantly cheaper product offerings;

(d) Arlo's new flagship wire-free security camera system, Arlo Ultra, suffered from quality control issues with its batteries that jeopardized the Company's ability to launch the product in time for the crucial holiday season; and

(e) as a result of (a)-(d) above, the Company was experiencing extreme margin pressures, had lost its ability to maintain its historical price premium, and was suffering from accelerating negative sales and operational trends.

49. Moreover, Item 303 of SEC Regulation S-K, 17 C.F.R. §229.303(a)(3)(ii), requires Defendants to "[d]escribe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." Similarly, Item 503 of SEC Regulation S-K, 17 C.F.R. §229.503(c), requires, in the "Risk Factors" section of registration statements and prospectuses, "a discussion of the most significant factors that make the offering speculative or risky" and requires each risk factor to "adequately describe[] the risk." The failure of the Registration Statement to disclose the adverse sales trends and need to engage in substantial promotional activity to continue sales growth (thereby eroding the Company's margins) violated 17 C.F.R. § 229.303(a)(3)(ii), because these undisclosed trends would (and did) have an unfavorable impact on the Company's net sales, revenues and income from continuing operations. This failure also violated 17 C.F.R. § 229.503(c), because these specific risks were not adequately disclosed, or disclosed at all, even though they were some of the most significant factors that made an investment in Arlo shares speculative or risky. To

1 the contrary, the Registration Statement contained boilerplate discussions of  
2 possible future issues but failed to disclose that these risks had already materialized.  
3 For example, the Registration Statement misleadingly discussed the risks that “may”  
4 occur “if” Arlo experienced product delays or received defective supplier parts but  
5 failed to disclose that the Company’s flagship product under development, the Arlo  
6 Ultra camera, suffered from quality control problems and battery defects.

7 50. On October 25, 2018, the Company issued a press release announcing  
8 its financial results for the quarter ended September 30, 2018 – the same quarter  
9 during which Defendants had conducted the IPO. Arlo announced that its GAAP  
10 gross margin had shrunk to 22.7% during the quarter, down from 25.5% the prior  
11 quarter and 27% in the comparable quarter the prior year. The press release also  
12 provided a dismal outlook for the Company’s fourth quarter of 2018, with a  
13 projected GAAP gross margin of only 12.4% to 14.4% – or approximately half the  
14 Company’s gross margin achieved in the quarter just prior to the IPO. At the same  
15 time, the Company forecast revenues of only \$140 million to \$155 million for the  
16 quarter, which represented a slight increase over the \$131.2 million in quarterly  
17 revenues achieved in the third quarter of 2018, despite the fact that the Company  
18 historically attained substantially higher revenues during the fourth quarter due to  
19 the holiday shopping season.

20 51. That same day, Arlo hosted an earnings conference call to discuss the  
21 results. In response to an analyst’s question about the concerning contraction in  
22 Arlo’s gross margins, Gorjanc stated that the sharp decline was due to the high level  
23 of promotional activity the Company needed to engage in to promote sales. In  
24 addition, Gorjanc stated that the promotional activity was necessary because Arlo  
25 had failed to bring a new product to market and the available products being sold by  
26 the Company were later in their sales cycle, and thus less desirable to consumers.  
27 The following is an excerpt from the exchange:  
28

1        **Analyst:** I guess I'm a little surprised to see revenue growth not  
2        accelerating with that level of gross margin decline. Is there a reason  
3        that we wouldn't – why would revenue growth be decelerating year-  
4        over-year with such a decline in gross margin year-over-year?

5        **Gorjanc:** So really, the majority of that promotion is that some of the  
6        products have been out there for quite a while, and we don't have a big  
7        new one hitting in channel all of Q4 like we would normally have, like  
8        we had Pro 2 last year, I think introduced in September. And I would  
9        say, that's really the main reason.

10       52. Later in the call, as analysts continued to express surprise over the need  
11       for Arlo to engage in such aggressive promotional activity, Gorjanc stated that she  
12       was "a little bit exasperated by, again, the product line being a little bit older. If I  
13       have a brand new product out in Q4, you can bet I'm not going to be promoting  
14       that."

15       53. Then, on December 3, 2018, the Company reported a delay in  
16       shipments of its new flagship wire-free security camera system, Arlo Ultra, due to a  
17       quality issue in the device's battery component. The defective cameras had been  
18       under development for months, including at the time of the IPO. In light of the  
19       increasing competitive pressures faced by Arlo from lower priced alternatives, the  
20       failure of the Arlo Ultra to timely launch was a material adverse development for the  
21       Company. As a result of the delay, the Company also lowered its fourth quarter  
22       2018 financial guidance, with "net revenue to be in the range of \$125 million to  
23       \$130 million, non-GAAP gross margin to be approximately 10%, and non-GAAP  
24       operating loss to be approximately 20% of revenue." As a result, the Company's  
25       revenues were actually projected to *decline* sequentially from the prior quarter,  
26       despite the impact of the holiday shopping season and the Company's planned  
27       promotional activities. Furthermore, the Company's gross margins during the fourth  
28       quarter were expected to be a fraction of what they had been just prior to the IPO.

54. On December 4, 2018, Arlo stock closed at \$8.80 per share, *or 45% less* than the price at which certain Defendants had sold Arlo stock in the IPO only four months previously.

### **THE TRUTH BEGINS TO EMERGE**

55. On December 3, 2018, the Company reported a delay in shipments of Ultra, citing “a quality issue with the battery from one of its suppliers” that was discovered during the product’s final testing phase. As a result of the delay, Ultra also lowered its fourth quarter 2018 financial guidance, advising investors that it anticipated “net revenue to be in the range of \$125 million to \$130 million, non-GAAP gross margin to be approximately 10%, and non-GAAP operating loss to be approximately 20% of revenue.”

56. Following this news, the Company’s stock price fell \$2.75 per share, or 22.86%, to close at \$9.28 on December 3, 2018. This constituted a decline of \$6.72, or approximately 42%, from the IPO price of \$16.00 per share.

### **DAMAGES TO ARLO**

57. As a result of Defendants’ improprieties, the Company failed to disclose and misrepresented the following adverse facts that existed at the time of the IPO: (a) Arlo was suffering from adverse sales trends in its key security camera products; (b) Arlo’s flagship products had begun the end of their sales cycle and the Company had failed to develop new products to replace them or to effectively compete with alternative products being offered by the Company’s rivals; (c) Arlo needed to engage in aggressive promotional activity and cut prices in order to maintain sales growth and stave off competition from well-resourced rivals, such as Google and Amazon, with significantly cheaper product offerings; (d) Arlo’s new flagship wire-free security camera system, Arlo Ultra, suffered from quality control issues with its batteries that jeopardized the Company’s ability to launch the product in time for the crucial holiday season; and (e) as a result of (a)-(d) above, the Company was experiencing extreme margin pressures, had lost its ability to

1 maintain its historical price premium, and was suffering from accelerating negative  
2 sales and operational trends.

3 58. Arlo's performance issues also damaged its reputation within the  
4 business community and in the capital markets. Arlo's current and potential  
5 investors consider a company's trustworthiness and ability to accurately value its  
6 business prospects and evaluate sales and growth potential. Arlo's ability to raise  
7 equity capital or debt on favorable terms in the future is now impaired. In addition,  
8 the Company stands to incur higher marginal costs of capital and debt because the  
9 improper statements and misleading projections disseminated by Defendants have  
10 materially increased the perceived risks of investing in and lending money to the  
11 Company.

12 59. Further, as a direct and proximate result of Defendants' actions, Arlo  
13 has expended, and will continue to expend, significant sums of money. Such  
14 expenditures include, but are not limited to:

15 (a) the costs incurred from defending and the payment of \$1,250,000  
16 to settle *Wong v. Arlo Technologies, Inc., et. al.*, Case No. 19-cv-00372-BLF  
17 (N.D. Cal.) ("Federal Securities Class Action"); and

18 (b) the costs incurred from defending and paying any settlement in  
19 an action brought under Section 11 of the Securities Act of 1933 entitled *In re*  
20 *Arlo Shareholder Litig.*, Lead Case No. 18CV339231 (Sup. Ct. Cal., County  
21 Santa Clara) (the "State Section 11 Class Action").

## 22 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

23 60. Plaintiff brings this action derivatively in the right and for the benefit of  
24 the Company to redress injuries suffered and to be suffered as a direct and  
25 proximate result of the breaches of fiduciary duties, waste of corporate assets, unjust  
26 enrichment, and violations of Sections 10(b) and 21D of the Exchange Act.

1           61. Plaintiff will adequately and fairly represent the interests of the  
2 Company in enforcing and prosecuting its rights and has retained counsel competent  
3 and experienced in derivative litigation.

4           62. Plaintiff is a current owner of the Company stock and has continuously  
5 been an owner of Company stock during all times relevant to the Director  
6 Defendants' wrongful course of conduct alleged herein.

7           63. Plaintiff understands his obligation to hold stock throughout the  
8 duration of this action and is prepared to do so.

9           64. During the illegal and wrongful course of conduct at the Company and  
10 through the present, the Board consisted of the Director Defendants.

11           65. Because of the facts set forth throughout this Complaint, demand on the  
12 Company Board to institute this action is not necessary because such a demand  
13 would have been a futile and useless act.

14           63. At the time Plaintiff filed this derivative action, the Company Board  
15 was comprised of seven (7) members – Aggrawal, Carter-Miller, Faison, McRae,  
16 Pope, Summers, and Rothstein. Thus, Plaintiff is required to show that a majority of  
17 the Director Defendants, *i.e.*, four (4), cannot exercise independent objective  
18 judgment about whether to bring this action or whether to vigorously prosecute this  
19 action.

20           64. The Director Defendants either knew or should have known of the false  
21 and misleading statements that were issued on the Company's behalf and took no  
22 steps in a good faith effort to prevent or remedy that situation.

23           65. The Director Defendants (or at the very least a majority of them)  
24 cannot exercise independent objective judgment about whether to bring this action  
25 or whether to vigorously prosecute this action. For the reasons that follow, and for  
26 reasons detailed elsewhere in this Amended Complaint, Plaintiff has not made (and  
27 should be excused from making) a pre-filing demand on the Board to initiate this  
28 action because making a demand would be a futile and useless act.

66. Each of the Director Defendants approved and/or permitted the wrongs alleged herein to have occurred and participated in efforts to conceal or disguise those wrongs from the Company's stockholders or recklessly and/or with gross negligence disregarded the wrongs complained of herein and are therefore not disinterested parties.

67. Each of the Director Defendants authorized and/or permitted the false statements to be disseminated directly to the public and made available and distributed to shareholders, authorized and/or permitted the issuance of various false and misleading statements, and are principal beneficiaries of the wrongdoing alleged herein, and thus, could not fairly and fully prosecute such a suit even if they instituted it.

68. Additionally, each of the Director Defendants received payments, benefits, stock options, and other emoluments by virtue of their membership on the Board and their control of the Company.

**Defendant McRae**

69. Defendant McRae is not disinterested or independent, and therefore, is incapable of considering demand because Defendant McRae (as CEO of the Company) is an employee of the Company who derives substantially all of his income from his employment with the Company, making him not independent. For example, for the year 2019 and 2020, Defendant McRae received the following:

Year	Salary	Stock Awards	Option Awards	Non-Equity Incentive Plan Compensation	All Other Compensation	Total
2020	\$778,846	\$3,343,921	\$---	\$378,546	\$4,338	\$4,505,651
2019	\$750,000	\$1,471,966	\$---	\$187,500	\$5,200	\$2,414,666

70. Defendant McRae had also the opportunity to earn a target annual performance bonus equal to 100%, 70% and 50% of his annual base salary, respectively.

1           71. As such, McRae cannot independently consider any demand to sue  
2 himself for breaching his fiduciary duties to the Company, because that would  
3 expose him to liability and threaten his livelihood.

4           72. According to the Company's Proxy, dated June 14, 2019, "McRae is  
5 not considered independent because he is an executive officer of the Company."

6           73. This lack of independence and the financial benefits received by  
7 Defendant McRae renders him incapable of impartially considering a demand to  
8 commence and vigorously prosecute this action.

9           74. In addition, McRae is a defendant in the Federal Securities Class  
10 Action.

11           75. Defendant McRae is also a defendant in the *active* State Section 11  
12 Class Action.

13           76. As such, Defendant McRae cannot independently consider any demand  
14 to sue himself for breaching his fiduciary duties to the Company, because that would  
15 expose him to liability and threaten his livelihood.

16 **Defendant Carter**

17           77. Defendant Carter is a defendant in State Section 11 Class Action.

18           78. As such, Defendant Carter cannot independently consider any demand  
19 to sue himself for breaching his fiduciary duties to the Company, because that would  
20 expose him to liability.

21 **Defendant Faison**

22           79. Defendant Faison is a defendant in the State Section 11 Class Action.

23           80. As such, Defendant Faison cannot independently consider any demand  
24 to sue himself for breaching his fiduciary duties to the Company, because that would  
25 expose him to liability.

26 **Defendant Summers**

27           81. Defendant Summers is a defendant in State Section 11 Class Action.

28

82. As such, Defendant Summers cannot independently consider any demand to sue himself for breaching his fiduciary duties to the Company, because that would expose him to liability.

**Defendants Pope, Summers, Miller and Aggarwal**

83. Defendants Pope, Summers, Miller and Aggarwal served as members of the Audit Committee. Pursuant to the Company's Audit Committee Charter, the purposes of the Audit Committee are to assist the Board in fulfilling its oversight responsibilities related to:

- *The accounting and financial reporting* processes of the Company and audits of the financial statements of the Company;
- *The integrity of the Company's financial statements*; the Company's compliance with legal and regulatory requirements; the independent auditor's qualifications, independence, performance, and compensation; and the Company's internal controls over financial reporting and disclosure controls and procedures;
- The preparation and approval of the reports that the rules of the Securities and Exchange Commission (the "SEC") require be included in the Company's annual proxy statement;
- *The Company's internal audit function*;
- Transactions between the Company and a related party; and
- The application of the Company's Code of Business Ethics and Conflict of Interest Policy for Directors, Officers and Key Employees as established by the Board.

84. Defendants Pope, Summers, Miller and Aggarwal breached their fiduciary duties of due care, loyalty, and good faith, because the Audit Committee, *inter alia*, allowed or permitted false and misleading statements to be disseminated in the Company's SEC filings and other disclosures and, otherwise, failed to ensure that adequate internal controls were in place regarding the serious issues and

1 deficiencies discussed herein. Thus, Defendants Pope, Summers, Miller and  
 2 Aggarwal face a substantial likelihood of liability for their breach of fiduciary duties  
 3 and any demand upon them is futile.

4 **Defendants Carter, Faison, Summers and McRae**

5 85. Defendants Carter, Faison and Summers served on the Board of  
 6 directors of NETGEAR.

7 86. Defendant McRae served as NETGEAR's Senior Vice President of  
 8 Strategy since October 2017.

9 87. Prior to the consummation of the Company's initial public offering in  
 10 August 2018, Arlo operated as an operating segment of NETGEAR. On December  
 11 31, 2018, NETGEAR completed the spin-off of Arlo by means of a special stock  
 12 dividend of 62,500,000 shares of our common stock that had been owned by  
 13 NETGEAR to NETGEAR stockholders of record as of the close of business on  
 14 December 17, 2018. The distribution of the special stock dividend was made on  
 15 December 31, 2018. Prior to the Distribution, NETGEAR owned approximately  
 16 84.2% of the outstanding shares of Arlo common stock.

17 88. As a result of the prior business relationships among Defendants Carter,  
 18 Faison, Summers and McRae, they are unable to evaluate a demand with  
 19 independence, and therefore, demand is excused.

20 **COUNT I**

21 **(Against The Director Defendants For Breach Of Fiduciary Duty)**

22 89. Plaintiff incorporates by reference and realleges each and every  
 23 allegation contained above, as though fully set forth herein.

24 90. The Director Defendants owe the Company fiduciary obligations. By  
 25 reason of their fiduciary relationships, the Director Defendants owed and owe the  
 26 Company the highest obligation of good faith, fair dealing, loyalty, and due care.

27 91. The Director Defendants violated and breached their fiduciary duties of  
 28 care, loyalty, reasonable inquiry, and good faith.

92. The Director Defendants engaged in a sustained and systematic failure to properly exercise their fiduciary duties. Among other things, the Director Defendants breached their fiduciary duties of loyalty and good faith by allowing the Company to make false and misleading statements in the Registration Statement about the Company's business performance and failed to maintain an adequate system of oversight, disclosure controls and procedures, and internal controls as alleged herein. These actions could not have been a good faith exercise of prudent business judgment to protect and promote the Company's corporate interests.

93. As a direct and proximate result of the Director Defendants' failure to perform their fiduciary obligations, the Company has sustained significant damages. As a result of the misconduct alleged herein, the Director Defendants are liable to the Company.

94. As a direct and proximate result of the Director Defendants' breach of their fiduciary duties, the Company has suffered damage, not only monetarily, but also to its corporate image and goodwill. Such damage includes, among other things, costs associated with defending multiple securities lawsuits, costs associated with settling one securities lawsuit, severe damage to the share price of the Company, all resulting in an increased cost of capital, and reputational harm.

## **COUNT II**

### **(Against The Director Defendants For Waste Of Corporate Assets)**

95. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

96. The wrongful conduct alleged regarding the issuance of false and misleading statements and its failure to maintain an adequate system of oversight, disclosure controls and procedures, and internal controls was continuous, connected, and on-going throughout the Relevant Period. It resulted in continuous, connected, and ongoing harm to the Company.

97. As a result of the misconduct described above, the Director Defendants wasted corporate assets by, *inter alia*: (i) paying excessive compensation and bonuses to certain of its executive officers; (ii) awarding self-interested stock options to certain officers and directors; and (iii) incurring potentially millions of dollars of legal liability and/or legal costs to defend Defendants' unlawful actions.

98. As a result of the waste of corporate assets, the Director Defendants are liable to the Company.

99. Plaintiff, on behalf of the Company, has no adequate remedy at law.

### **COUNT III**

#### **(Against Defendants For Unjust Enrichment)**

100. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

101. By their wrongful acts, violations of law, and false and misleading statements and omissions of material fact that they made and/or caused to be made, Defendants were unjustly enriched at the expense of, and to the detriment of, the Company.

102. Defendants received unjustly lucrative payment tied to the false and misleading statements, or received fees and stock awards, or similar compensation from the Company that was tied to the performance or artificially inflated valuation of the Company stock. For example:

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)	Option Awards (\$)	Total (\$)
Faison	\$107,259	\$180,000	---	\$287,259
Carter-Miller	\$56,262	\$180,000	---	\$236,262
Summers	\$61,119	\$180,000	---	\$241,119
Pope	\$53,588	\$180,000	---	\$233,688
Aggarwal	\$60,724	\$180,000	---	\$240,724
Rothstein	\$36,495	\$180,000	---	\$216,495

103. Plaintiff, as a shareholder and a representative of Arlo, seeks restitution from these Defendants and seeks an order from this Court disgorging all profits—

1 including any performance-based or valuation-based compensation—obtained by  
2 Defendants due to their wrongful conduct.

3 104. Plaintiff, on behalf of the Company, has no adequate remedy at law.

4 **COUNT IV**

5 **(Against Defendant McRae For Violations Of**  
6 **Sections 10(b) And 21D Of The Exchange Act)**

7 105. Plaintiff incorporates by reference and realleges each and every  
8 allegation contained above, as though fully set forth herein.

9 106. The Company, along with Defendant McRae, were named as  
10 defendants in the Federal Securities Class Action, which asserted claims under the  
11 federal securities laws for violations of Sections 10(b) and 20(a) of the Exchange  
12 Act, and SEC Rule 10b-5 promulgated thereunder. The defendants in the Federal  
13 Securities Class Action recently settled the action, agreeing to pay \$1,250,000 in  
14 cash. The Company's liability was in whole or in part due to Defendant McRae's  
15 willful and/or reckless violations of his obligations as an officer and director of the  
16 Company.

17 107. Through his position of control and authority as an officer of the  
18 Company, Defendant McRae was able to and did, directly and/or indirectly, exercise  
19 control over the business and corporate affairs of the Company, including the  
20 wrongful acts described in the Federal Securities Class Action and herein.

21 108. The Company has now settled the claims against it for violating the  
22 federal securities laws, thus Company's liability arose in whole or in part from the  
23 intentional, knowing, or reckless acts or omissions of Defendant McRae as alleged  
24 herein, who caused the Company to suffer substantial harm through his disloyal  
25 acts. The Company is entitled to contribution and indemnification from Defendant  
26 McRae in connection with all claims that were asserted in the Federal Securities  
27 Class Action, and those claims that continue to be asserted in the State Section 11

1 Class Action, which have been, are, or may continue to be asserted against the  
2 Company by virtue of his wrongdoing.

3 109. As an senior officer and director, Defendant McRae had the power or  
4 ability to, and did, control or influence, either directly or indirectly, the Company's  
5 general affairs, including the content of its public statements, and had the power or  
6 ability to directly or indirectly control or influence the specific corporate statements  
7 and conduct that caused the violations of law set forth in the Federal Securities Class  
8 Action and the State Section 11 Class Action.

9 110. Defendant McRae is liable under § 21D of the Exchange Act, which  
10 governs the application of any private right of action for contribution asserted  
11 pursuant to the Exchange Act.

12 111. Defendant McRae has damaged the Company and is liable to the  
13 Company for contribution.

14 112. No adequate remedy at law exists for Plaintiff by and on behalf of the  
15 Company.

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

18 (A) Declaring that Plaintiff may maintain this action on behalf of the  
19 Company and that Plaintiff is an adequate representative of the Company;

20 (B) Finding the Director Defendants liable for breaching their fiduciary  
21 duties owed to the Company;

22 (C) Directing Defendants to take all necessary actions to reform and  
23 improve the Company's corporate governance, risk management, and internal  
24 operating procedures to comply with applicable laws and to protect the Company  
25 and its stockholders from a repeat of the rampant wrongful conduct described  
26 herein;

27 (D) Awarding contribution against the Defendant McRae and in favor of  
28 the Company for the damages suffered by the Company;

**AMENDED VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT**

1 (E) Awarding Plaintiff the costs and disbursements of this action, including  
2 attorneys', accountants', and experts' fees; and

3 (F) Awarding such other and further relief as is just and equitable.

4 **JURY TRIAL DEMANDED**

5 Plaintiff hereby demands a trial by jury of all issues so triable.

6 Dated: May 24, 2021

7  
8 **MAGNANIMO & DEAN, LLP**

9 By: /s/ Frank A. Magnanimo  
10 Frank A. Magnanimo  
21031 Ventura Boulevard  
Suite 803  
11 Woodland Hills, CA 91364  
Telephone: (818) 305-3450  
12 Facsimile: (818) 305-3451  
Email: [Frank@MagDeanLaw.com](mailto:Frank@MagDeanLaw.com)

13  
14 **GAINEY McKENNA & EGLESTON**

Thomas J. McKenna  
Gregory M. Egleston  
15 501 Fifth Avenue, 19<sup>th</sup> Floor  
New York, NY 10017  
16 Telephone: (212) 983-1300  
Facsimile: (212) 983-0383  
17 Email: [tjmckenna@gme-law.com](mailto:tjmckenna@gme-law.com)  
Email: [gegleston@gme-law.com](mailto:gegleston@gme-law.com)

18 *Attorneys for Plaintiff*

19  
20 Of Counsel:

21 **MOORE KUEHN, PLLC**  
Fletcher Moore, Esq.  
22 30 Wall Street, 8<sup>th</sup> Floor  
New York, NY 10005  
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26  
27  
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